

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

MICHAEL FABACHER and
CHRISTIAN TEAGUE

Plaintiffs,

V

ROBERT FRANCIS HALVEY and
P&G GROUP, INC.

Defendants.

CIVIL ACTION NO.

JURY REQUESTED

DEFENDANT P&G GROUP, INC.'S NOTICE OF REMOVAL

Pursuant to 28 U.S.C §§ 1332(a), 1441, and 1446, Defendant P&G Group, Inc. (“Defendant”), hereby gives notice of the removal of this cause of action to the United States District Court for the Southern District of Texas, Houston Division. Defendant states as grounds for removal the following:

PROCEDURAL STATUS OF THE CASE

1. Plaintiffs Michael Fabacher and Christian Teague (collectively, “Plaintiffs”) filed this action in the 152nd Judicial District Court at Law of Harris County, Texas on November 21, 2017. It carries the case style of *Cause No. 2017-78530; Michael Fabacher and Christian Teague v. Robert Francis Halvey*, in the 164th Judicial District Court of Harris County, Texas.

2. The Judicial District Court of Harris County, Texas issued its citation to P&G Group, Inc. and it was delivered on January 16, 2018.

3. Defendant is filing this Notice of Removal within 30 days of its receipt of Plaintiffs' Original Petition.

4. All pleadings, process, orders, and other filings in the state court action accompany this notice. *See* 28 U.S.C. § 1446(a).

5. This Notice of Removal is being filed in the record office of the Clerk of the United States District Court for the Southern District of Texas, Houston Division.

6. Defendant will promptly file a copy of this Notice of Removal with the Harris County, Texas, District Clerk.

BACKGROUND

7. This case arises out of a motor vehicle accident alleged to have occurred in Texas on June 13, 2017. Plaintiffs allege they suffered personal injuries as a result of the negligence of Defendant Robert Frances Halvey.

8. Plaintiff Michael Fabacher currently resides Houston, Texas and is a citizen of the State of Texas.

9. Defendant Robert Francis Halvey currently resides in Tarpon Springs, Florida and is a citizen of the State of Florida.

10. Defendant P&G Group, Inc. is an Indianapolis corporation and is a citizen of the State of Indiana.

DIVERSITY OF CITIZENSHIP AS BASIS FOR ORIGINAL FEDERAL COURT JURISDICTION

11. Plaintiffs demand judgment in an amount exceeding \$75,000 and the plaintiffs and the defendants in this matter are citizens of different States. The district courts therefore have original jurisdiction of this matter according to 28 U.S.C § 1332(a).

PROPRIETY OF REMOVAL

12. This Notice of Removal is timely because it is filed within thirty (30) days of Defendant's receipt of the Original Petition, in accordance with 28 U.S.C § 1446(b).

13. Defendants P&G Group, Inc. and Robert Francis Halvey consent to removal. 28 U.S.C. § 1446(b)(2)(A).

14. This court has original jurisdiction of this matter under 28 U.S.C § 1332(a).

15. Except as otherwise expressly provided by an Act of Congress, any civil action brought in a state court of which the district courts of the United States have original jurisdiction may be removed to the district court of the United States for the district and division embracing the venue where the state court action was pending. *See* 28 U.S.C § 1446(a). The state court action that is the subject of this notice of removal is pending in Harris County, Texas, which is found in the Southern District of Texas, Houston Division. Therefore, venue of this removed action is proper.

16. Removal is not barred by 28 U.S.C. § 1445. Neither Defendant is a citizen of the State of Texas, so removal is not prohibited by 28 U.S.C. § 1441(b).

17. Pursuant to 28 U.S.C § 1446(a) and Local Rule 81, Defendant has attached hereto:

- a. An Index of Documents being filed as Exhibit A;
- b. A copy of the state court docket sheet as Exhibit B;
- c. Each of the documents filed in the state court action as Exhibit C, including a copy of the process; and
- d. A list of all counsel of record as Exhibit D.

REQUEST FOR HEARING AND JURISDICTIONAL DISCOVERY

18. If Plaintiffs contest this removal, Defendant requests:

- a. A hearing regarding this Court's jurisdiction over, and the propriety of removal of, this matter;
- b. The opportunity to present evidence demonstrating the existence of federal jurisdiction and the propriety of removal; and
- c. Leave to conduct limited discovery related to those issues.

JURY DEMAND

19. Defendant demands a jury trial.

WHEREFORE, PREMISES CONSIDERED, Defendant, P&G Group, Inc., removes the above captioned action from the 152nd Judicial District of Harris County, Texas to the United States District Court for the Southern District of Texas, Houston Division.

Respectfully submitted,

THE FUENTES FIRM, P.C.

/s/ Robert Fuentes

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ATTORNEYS FOR DEFENDANT

P&G GROUP, INC.

CERTIFICATE OF SERVICE

I hereby certify that all counsel of record who are deemed to have consented to electronic service are being served with a copy of this document via the Court's CM/ECF system per S. Dist. Tex. Loc. R. LR5.1. A true and correct copy of the foregoing Defendants' Notice of Removal was served upon counsel of record in compliance with the Federal Rules of Civil Procedure by certified mail, return receipt requested, telephonic communications, hand delivery and/or U.S. Mail on this 12th Day of February, 2018.

/s/ Robert Fuentes
ROBERT FUENTES